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**Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo**

## Note verbale dated 23 May 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) and has the honour to transmit the report on measures taken by Spain in compliance with Security Council resolution 2293 (2016) (see annex).

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## Annex to the note verbale dated 23 May 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

## Report of Spain on implementation of Security Council resolution 2293 (2016) concerning the Democratic Republic of the Congo

### Introduction

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) and, pursuant to paragraph 32 of Security Council resolution 2293 (2016), has the honour to submit the required report on implementation of the concrete measures taken by Spain to implement effectively the measures imposed by paragraphs 1, 4 and 5 of Security Council resolution 1952 (2010).

Pursuant to paragraph 32 of the resolution, referred to above, in which all States, in particular those in the region, are urged to report to the Committee on the actions they have taken to implement the measures imposed by Security Council resolution 1952 (2010), Spain, like the other States members of the European Union, has ensured the implementation of Security Council sanctions resolutions in the European Union legal order through the corresponding European Union decisions and regulations.

### Legal framework

The relevant legal instruments that have been adopted are as follows:

(a) Decision 788/2010/CFSP of the Council of the European Union, of 20 December 2010, amended by Council Decision (CFSP) 1173/2016 of 18 July 2016, which incorporates the changes provided for in Security Council resolution 2293 (2016);

(b) Regulation (EC) 1183/2005 of the Council of the European Union, of 18 July 2005, amended by Council Regulation (EU) 2016/1165 of 18 July 2016.

The European Union has also adopted its own additional restrictive measures to complement those agreed by the United Nations, and they are set out in Council Decision (CFSP) 2016/2231 and Council Regulation (EU) 2016/2230 of 12 December 2016. These measures are applicable only within the jurisdiction of the European Union.

Spain also has comprehensive national legislation in various areas that are closely related to some of the matters covered in Security Council resolution 2293 (2016) and therefore have an impact on the sanctions regime imposed on the Democratic Republic of the Congo.

### Measures taken to implement effectively the provisions of Security Council resolution 2293 (2016)

*Action connected with the conventional arms embargo*

The above-mentioned decisions and regulations are complemented, in this area, by Spanish legislation on the control of foreign trade in defence-related and dual-use materials.

The Government of Spain, through the Interministerial Regulatory Board for External Trade in Defence-related and Dual-use Materials and the Department of Trade of the Ministry of Economic Affairs, Industry and Competitiveness, fully

analyses each export transaction, taking into consideration the parameters contained in articles 6 and 7 of the Arms Trade Treaty, the eight criteria of Council Common Position 2008/944/CFSP of 8 December 2008, which establish common rules governing control of exports of military technology and equipment, and the criteria in the Organization for Security and Cooperation in Europe document on small arms and light weapons. When examining applications, particular attention is given to compliance by importing countries with criteria 1 (sanctions), 2 (respect for human rights), 3 (internal situation), 4 (regional situation) and 7 (risk of diversion) of the aforementioned Common Position, and transactions that do not meet these criteria are not authorized.

The competent authorities of Spain strictly comply with the restrictive measures imposed under United Nations and European Union embargoes. In this connection, they regularly meet with companies in the sector to explain the current regulations and the Spanish system of export controls, placing a particular emphasis on the embargoes in force. As a result, Spanish companies are aware of the restrictions on arms and related materiel exports to countries subject to embargoes and therefore usually do not apply for export licences for those destinations.

The applicable national legislation in this field is contained in Act No. 53/2007 of 28 December 2007 on the control of foreign trade in defence-related and dual-use materials, in the Regulations on the control of foreign trade in defence-related material, other material and dual-use items and technology approved through Royal Decree No. 679/2014 of 1 August 2014, and in Order ECC/1493/2016 of 19 September 2016 updating the annexes to the aforementioned Regulation. Article 8 of the Act allows, under certain circumstances, applications for licences to be denied and licences granted to be suspended or revoked by an order issued by the head of the State Secretariat for Trade. Licences must always be revoked in the event of failure to comply with the conditions that were attached to them and provided grounds for their issuance, or if the applicant has omitted or falsified information.

Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a European Community regime for the control of exports, transfer, brokering and transit of dual-use items is also noteworthy. This Regulation gives member States the power to prevent the brokering of any goods or materials that could be used in connection with a weapons-of-mass-destruction programme in their destination country, or of any dual-use material with possible military use in a State subject to an arms embargo.

In Spain, the definition of non-compliance with these types of sanctions by operators, and the corresponding penalties, are set out in Organic Act 12/1995 of 12 December 1995 on countering smuggling, amended by Organic Act 6/2011 of 30 June 2011. The unauthorized export of such goods is defined as smuggling if their value equals or exceeds 50,000 euros and is punishable by a prison term of one to five years and fines of up to six times the value of the exported goods.

*Entry bans and travel restrictions*

The instruments mentioned in paragraph 4 take into account the list of individuals subject to entry and travel bans which, together with Council Regulation 539/2001 listing the third countries whose nationals must be in possession of visas when crossing borders, establishes grounds for denial of entry into European Union territory.

Spanish policy on foreign nationals is governed by Organic Act No. 4/2000 of 11 January 2000 on the rights and freedoms of aliens in Spain and their social integration.

*Financial measures and asset freezes*

Spain has specific legislation on countering money-laundering and international terrorist financing, which complements the legal instruments adopted at European Union level (see paragraph 4). Article 42 of Act No. 10/2010 of 28 April 2010 on preventing money-laundering and terrorist financing explicitly mentions the freezing of funds in accordance with international sanctions.